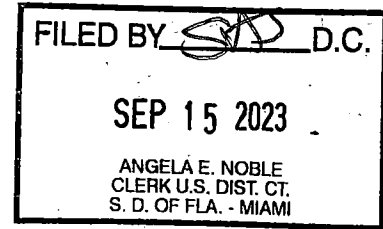


UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
FLORIDA
(Miami Civil Division)



FRANK POLO, et al.
Plaintiffs,

v.

BERNSTEIN, et al.

Defendants,

CASE NO: 23-CV-21684 /

NEEDED BY JUNE 21, 2023

MOTION TO REOPEN AND TAKE NOTICE OF PENDING MOTIONS

Comes now the Plaintiffs, FRANK POLO, FP, and HP, and herein respectfully requesting this honorable Court, Pursuant to the order this honorable Court rendered on Jun 21, 2023, that this honorable Court grant this *Motion to Reopen And Take Notice of Pending Motions*, and in support thereof states as follows:

1. On Jun 21, 2023, this honorable Court rendered an order that states in pertinent part as follows:

The Court grants 14 the Plaintiff's motion for an extension of time to file his second amended complaint. The Plaintiff must file his second amended complaint on or before August 21, 2023. In the meantime, while there is no viable complaint before the Court, the Court directs the Clerk to administratively close this case. If the Plaintiff submits a second amended complaint in compliance with the Court's orders, the Court will reopen this case.

2. On August 21, 2023, the Plaintiffs, pursuant to the June 21, 2023 order, filed his timely amended complaint.

3. Thinking that the Clerk of Court was supposed to automatically reopen the case, the plaintiff filed the "*MOTION FOR APPOINTMENT OF THE U.S MARSHAL'S OFFICE AS A PROCESS SERVER TO SERVE SUMMONS AND COMPLAINTS UPON THE DEFENDANTS*,"

AND FOR AN EXTENSION OF 90 DAYS TO SERVE THE DEFENDANTS" and an "APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS."

4. After noticing that the case remained closed, the plaintiff called the clerk of court and he was told that the Judge must enter an order opening the case.

5. I sent an email to this Honorable Court (attached herein as EXHIBIT: 1) and I never received a response.

6. Therefore, out of an abundance of caution, the Plaintiffs are respectfully asking this court to reopen the case to avoid further procedural delay.

7. **WHEREFORE**, the Plaintiffs, in this case, are respectfully asking this honorable Court to grant the *Motion to Reopen And Take Notice of Pending Motions ("MOTION FOR APPOINTMENT OF THE U.S MARSHAL'S OFFICE AS A PROCESS SERVER TO SERVE SUMMONS AND COMPLAINTS UPON THE DEFENDANTS, AND FOR AN EXTENSION OF 90 DAYS TO SERVE THE DEFENDANTS" and an "APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS.")*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the forgoing *Motion will NOT be served on* any of the Defendants because they have not yet been served with the summons and complaints.

Respectfully submitted on this 15 day of September 2023.

BERNSTEIN, et al.

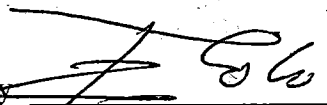

By _____
PLAINTIFFS
Frank Polo, et al.
1475 SW 8th St. Apt. 411
Miami, FL. 33135
Phone: 305-901-3360
E-Mail: Frank.Polo@msn.com

EXHIBIT: 1

FPolo1@outlook.com

From: Frank Polo <frank.polo@msn.com>
Sent: Monday, September 11, 2023 9:57 AM
To: scola@flsd.uscourts.gov; goodman@flsd.uscourts.gov
Subject: Polo v. Bernstein (1:23-cv-21684) is pending reopening

Honorable Judge Scola and Judge Goodman:

I would like to draw your attention to the fact that this court has not reopened the case after I filed a proper amended complaint on August 21, 2023 as ordered by this honorable Court. I called the Clerk of Court with this inquiry, and they told me the Judge must issue an order for them to open the case.

This Honorable Court's order stays in pertinent part as follows:

"The Court grants 14 the Plaintiff's motion for an extension of time to file his second amended complaint. The Plaintiff must file his second amended complaint on or before August 21, 2023. In the meantime, while there is no viable complaint before the Court, the Court directs the Clerk to administratively close this case. If the Plaintiff submits a second amended complaint in compliance with the Court's orders, the Court will reopen this case."

Thank you in advance for your kind and timely attention to this matter.

Respectfully,

Frank Polo